

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO.18371
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision to deny the property tax reduction benefit for 2004. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the contents of that file.

[Redacted] (petitioners) filed a property tax reduction benefit application on or about April 1, 2004. During review of that application [Redacted], the staff identified non-taxable annuity proceeds the petitioners received in 2003 that had not been included in the application.

The staff sent the petitioners a letter advising them that their income total was going to be adjusted to include the non-taxable portion of the annuity. The petitioners protested the intended action.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of a payment (either total or partial) of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction benefit program than it is described in the income tax code. Income for property tax reduction benefit purposes is

defined in Idaho Code § 63-701(5):

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) **The nontaxable amount of any individual retirement account, pension or annuity**, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and/or, if applicable, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The nontaxable portion of any annuity or pension is specifically required to be included in income for the purpose of property tax reduction. The only exception is if an annuity or pension is rolled over as provided in section 402 or 403 of the Internal Revenue Code.

The staff determined the petitioners received a gross distribution in the amount of \$7,061. Because none of the funds were taxable, they were not included in the petitioners' federal adjusted gross income for tax purposes or in the application for the purpose of property tax reduction. The petitioners' son wrote a letter objecting to the inclusion of this money in income for the purpose of the benefit. He said his father, [Redacted], is critically ill and no longer able to work thereby decreasing his parents' income by another \$5,100.

The property tax reduction benefit is not federal or state income tax – it is payment of property tax based on certain qualifying factors including income. Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the nontaxable portion of the annuity listed in the petitioners' 2003 federal individual income tax return, although not included in their income for tax purposes, must be included in their income for property tax reduction benefit purposes.

As a result, the petitioners' income for the purpose of this benefit is determined to be \$21,804 - exceeding the \$21,580 allowed for an applicant to receive a minimum benefit. The petitioners' property tax reduction benefit for 2004 must be denied.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction benefit applicant in certain circumstances. The proper jurisdiction to handle such hardship situation falls with the [Redacted] County Commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff to deny the property tax reduction benefit is APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2004, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.

[REDACTED]

[Redacted]
